THE CHITTIES REGULATION AMENDMENT BILL.

Mr. Subba Aiyar:—

"Sir,

I beg to introduce a Bill to amend the Chitties Regulation, III of 1094. The Bill is a short one and it has been published in the Gazette and it is therefore unnecessary for me to obtain leave for introducing it in the Council. With regard to the provisions in the amending Bill, it will be seen that under Section 18 of the Chitties Regulation, every foreman is bound to keep books which may be prescribed by Government from time to time, but no penalty has been provided in the Regulation for not keeping the books required to be kept by the Section. The result is that it is not possible to enforce the provisions of Section 18. The Director of Registration therefore suggested that the necessary penal provisions should be made in the Regulation. It is with that view that the Bill has been drafted. I beg to move that the principle of the Bill be affirmed."

Seconded by Mr. Rajaraja Varma.

Mr. John Nidiry:—

"I beg to accept the principle of the Bill and in doing so, I should like to make one observation. The foremen of chitties in Travancore do much co-operative credit work and chitties are in some respects rendering useful help in that direction. So, punishment for irregularities like not keeping of accounts should not be visited by heavy fines. I would suggest a fine of Rs. 10 instead of Rs. 50 as provided in the Bill."

Mr. Subba Aiyar's motion was carried.

Mr. Subba Aiyar:—

"The Bill is a short and non-contentious one. I therefore beg to move that the Bill be not referred to a Select Committee and that it be taken up for consideration at once, the rules being suspended."

Seconded by Dr. Kunjan Pillai.

Carried.

Mr. John Nidiry:—

"I beg to move that the word "ten" be substituted for "fifty" in line 2 of the new Clause which is proposed to be added as Section 18 A."

The motion fell through for want of seconding.

The consideration of the Bill over, Mr. Subba Aiyar moved that the rules as to final reading be suspended and that the Bill be finally read and passed.

Seconded by Mr. Raman Menon.

Carried.

THE TRAVANCORE ELECTIONS OFFENCES AND INQUIRIES BILL.

Mr. Subba Aiyar:—

"Sir,

I beg to introduce the Elections Offences and Inquiries Bill. This Bill has been published under rule 32 of the rules for the conduct of business of the Legislative Council. In introducing the Bill, I may say a few words in explanation of the main provisions of the Bill and the necessity therefor. It will be evident that, under the old Towns Conservancy and Improvement Regulation, election for Municipal seats was allowed by Government, and under the present Municipal Regulation the majority of the members of the Municipalities are elected. Similarly from Regulation II of 1097 which has been recently passed, it will be clear that the majority of seats in the Legislative Council, *viz.*, 28, is intended to be thrown open for election. So far as this Regulation is concerned, I need hardly say that it confers very real and substantial powers upon the people, in as much as the power of the purse is granted to the Council. Except with reference to certain subjects, the budget has to be placed in the form of demands for grants and the same has to be sanctioned by the Council. It is only then that the budget can be given effect to. This being the case, it is only desirable that the members should really represent the views of the people. To secure this object it is necessary that in the matter of elections purity and honesty should be aimed at. With a view, therefore, to protect elections from corruption and malpractices, the present Bill has been drafted. I do not think that there will be any difference of opinion on the question that all elections should be free from corrupt practices. I do not for a moment say that there have been many such practices in the past. What I say is that it is likely that there may hereafter be cases of such practices. It is therefore thought desirable that before the elections for the new Legislative Council take place, a Regulation penalising corrupt practices in elections should be passed. It is with that view that the Bill has been drafted. The Bill is in accordance with the English Law of 1883 and 1890 and the British Indian Act recently passed.

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With reference to the provisions of the Bill, I may say that the Bill is sufficiently explanatory. In Part I, the various corrupt practices are enumerated and defined. Bribery, undue influence, false personation, and malicious and false statements with reference to a rival candidate are some of the main offences, and, under the rules, if in any election any of these offences is committed, such election would be void. There may also be less serious corrupt practices. In such cases if they materially affect the election of a candidate, his election is liable to be set aside. Seeing that elections play a prominent part in the Municipal and Legislative Councils, it is necessary that election offences should be provided for in the general law of the land and should therefore form part of the Penal Code. Hence, a new Chapter has been added as Chapter IX A. This Chapter provides for the offences I have mentioned. A candidate as defined in this Part includes a prospective candidate at an election. The right of a person to stand or not to stand as or to withdraw from being a candidate or to vote or refrain from voting at an election is called an 'electoral right'. With reference to Part II, I may say that it is intended to regulate the procedure to be adopted by the Commissioners appointed to dispose of election petitions. Hitherto, if an objection petition is presented, the petition is disposed of by Government. It is thought that Government should have nothing to do with the matter, *i. e.*, to decide whether a particular election to the Legislative Council is valid or not, and that it is expedient that it should be by a body of persons who are trained in the law and who possess a judicial frame of mind. They will be persons who are or were or who are qualified to be judges. This is provided for in the draft electoral rules, which will be published in the Gazette next week. If such persons are appointed as Commissioners, the public will have confidence in the decisions of the Commissioners. The proceedings of the Commissioners are declared judicial proceedings. The Commissioners may exercise the powers of a Civil Court under the Civil Procedure Code other than the High Court. It is also stated that for certain offences, *viz.*, bribery and undue influence in an election, a particular candidate may be disqualified from exercising electoral right for a short period and may be disqualified from holding certain offices. The above are in short the main provisions of the Bill. I beg to move that the principle of the Bill be affirmed."

Seconded by Dr. Kunjan Pillai.

Mr. Kayalam Parameswaran Pillai:—

"I may say that we are at a considerable disadvantage in considering this measure at this stage. As Mr. Subba Aiyar himself has explained, the immediate reason for introducing this measure is the passing of Regulation II of 1097 and the importance that has to be attached to the elections that are to be held under that Regulation. We are not aware what the election rules are. We do not know what will be the nature of the enquiries that may have to be made, what would be the work to be done by the Commissioners and under whatconditions, what provisions have to be applied,—in short, what would be the object that is sought to be gained by this. I may only refer to one instance. There is the provision for the appointment of Commissioners to enquire into the validity of elections. We do not yet know who are to be appointed as Commissioners and who are to appoint them. We cannot even guess from this provision what their function is, what it is they are going to do, and what is the object that is sought to be attained by their appointment. Mr. Subba Aiyar says that the election rules will be published next week. The rules are said to be in draft form. We should be in a position to know under what conditions the provisions of the Bill are to be applied. I do not for a moment deny the necessity for a measure of this sort. However that we may see the various provisions in their perspective, it is necessary that we must be in a position to read the Election Rules along with this Bill. Unfortunately, this is the last meeting under the old Legislative Council Regulation, and probably, it is difficult to postpone the measure. Seeing that it is unavoidable, I accept the principle of the measure."

Mr. John Nidiry :—

"I beg to support the principle of the Bill, and in doing so, I beg to make a few observations. No doubt, with the reforms contemplated under Regulation II of 1097 and also under the new Municipal Regulation, it is likely that there may be malpractices in connection with elections and election campaigns from the officers, candidates and voters concerned. It is therefore expedient to check the evils by punishments as well. I fail to understand why the election enquiries and other matters under Part II should be confined to the elections to the Legislative Council alone. I believe the Municipal elections also come under the statutory law. Perhaps the elections of the Assembly may not come under it. Another point I should like to touch upon is with reference to the proposed Section 164 C (1) of the Penal Code which is to the effect that whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence

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of undue influence at an election. The words 'interferes or attempts to interfere with the free exercise of any electoral right' are too vague and indefinite and the provision is likely to be abused by the authorities and mischievously inclined complainants. Evidently what is contemplated by Section 164 C is to prevent undue influence at elections. Clauses (2) (*a*) and (*b*) of the Section make ample provision for threats, inducements and other kinds of known interferences. I therefore think that Clause 1 of Section 164 C is unnecessary and that it is calculated to do more harm than good. Again the punishment for failure to keep election accounts is rather heavy, to begin with. With these few observations I beg to accept the principle of the Bill."

Mr. Subba Aiyar's motion was carried.

Mr. Subba Aiyar then read out the portion of the draft election rules relating to the appointment of Commissioners and said:—

"These rules will show, as I have already said, the nature of the enquiry to be conducted, and the persons who are to be appointed as Commissioners. The rules are only in draft form. The public will be given time to offer their suggestions and it is only after considering their suggestions that the rules will be finally passed. Seeing that there is no objection to the provisions of the Bill, I think that it is unnecessary to refer it to a Select Committee and I accordingly move that the Bill be taken up for consideration at once, the operation of the rules being suspended."

Seconded by Mr. Rajaraja Varma.

Mr. Subba Aiyar's motion was carried.

President:—

"Mr. Kayalam Parameswaran Pillai has given notice of two amendments to the Bill. If the members desire to go through the provisions of the Bill again with a view to see if they require to be improved in any manner, I have no objection to the discussion of the Bill being postponed till to-morrow."

Mr. Kayalam Parameswaran Pillai:—

"I would suggest that the Bill be taken up for consideration and gone through after lunch. In the meantime, the Members may go through the Bill once again and see if any more amendments are required."

The Council accepted Mr. Kayalam Parameswaran Pillai's proposal.

THE LIMITATION REGULATION AMENDMENT BILL.

Mr. Subba Aiyar:—

"Sir,

This is a very important measure. The amending Bill repeals the existing Regulation and contains a large number of amendments embodied in it. It was thought that this Bill should be introduced along with the Civil Procedure Code Amendment Bill. This is not now before the Council. That being the case, I do not know whether it is desirable to introduce this Bill at this meeting. Further if this Bill is referred to a Select Committee, there is no guarantee that the Members of the Select Committee will continue to sit for the consideration of the Bill as the Members will have to vacate office soon. Therefore, the consideration of the Bill by a Select Committee will have to be deferred until the new Council meets. In these circumstances, I think it will be better to defer the introduction of the Bill itself to the new Council."

The Council accepted Mr. Subba Aiyar's proposal.

THE IRRIGATION REGULATION AMENDMENT BILL.

Mr. Subba Aiyar:—

"It was decided at the last meeting of the Council that the Bill which is a short and non-contentious measure need not be referred to a Select Committee. I beg to move that the Bill be taken up for consideration at once."

Seconded by Dr. Kunjan Pillai.

Carried.

Mr. Subrahmanya Pillai:—

"With regard to the rules proposed to be framed under this measure I suggest that before they are finally passed by Government, they may be published in the Gazette, and the people allowed a voice in the matter."

President:—

"The suggestion will be borne in mind."

The consideration of the Bill over, Mr. Subba Aiyar moved that the Bill be finally read and passed, the operation of the rules being suspended.

Seconded by Mr. Anantanarayana Aiyar.

Carried.

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